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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,793	09/21/2001	Halina Malina		7937

7590  
Malina Halina  
12 Res Les Amonts  
Les Ulis, 91940  
FRANCE

08/06/2008

EXAMINER
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TELLER, ROY R

ART UNIT	PAPER NUMBER
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1654

MAIL DATE	DELIVERY MODE
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08/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/936,793	<b>Applicant(s)</b> MALINA, HALINA	
	<b>Examiner</b> ROY TELLER	<b>Art Unit</b> 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is in response to the communication, received 10/11/2007.

Claims 1-6 are under examination.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### **Response to Amendments/ Arguments**

Applicant's arguments and amendments filed 10/11/07 are acknowledged and have been fully considered. Any rejection and/or objection not specifically addressed is herein withdrawn.

### ***Claim Rejections - 35 USC § 101***

Claims 1-6 are/stand rejected under 35 USC 101 for the reasons of record which are restated below.

Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well established utility.

The instant claims are drawn to a compound destined to cause an immune response in a living organism being the product of the reaction between xanthurenic acid and a protein. Xanthurenic acid is a natural metabolite circulating in the body and would necessarily react with cellular/ tissue proteins. Kobayashi et al. (Chem. Pharm. Bult., 1980, vol. 28, pp-2960-2966) discloses xanthurenic acid is a metabolite of tryptophan , which appears in the urine and blood. See, for example, page 2960.

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Applicant's arguments have been carefully considered but were not found persuasive. Applicant contends that the application is drawn to production of antibody against these proteins. However, the examiner contends that the instant claims are not drawn to an antibody, but rather a compound, and that Xanthurenic acid is a natural metabolite circulating in the body and would necessarily react with cellular/ tissue proteins.

***Claim Rejections - 35 USC § 112***

Claims 1-6 are/ stand rejected under 35 USC 112, first paragraph for the reasons of record which are restated below.

Claims 1-6 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Applicant's arguments have been carefully considered but were not found persuasive. Applicant contends that the application is drawn to production of antibody against these proteins. However, the examiner contends that the instant claims are not drawn to an antibody, but rather a compound, and that Xanthurenic acid is a natural metabolite circulating in the body and would necessarily react with cellular/ tissue proteins.

Claims 1-4 are/stand rejected under 35 USC 112, second paragraph for the reasons of record which are restated below.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “ a compound destined to cause immune response in a living organism being the product of the reaction...” . This is vague and indefinite as to the reaction. The examiner suggests “ An antigenic compound formed by the reaction...”.

Claim 2 recites “ Compound according to claim 1 consisting of that xanthurenic acid...”. This is vague and indefinite as to the compound. The examiner suggests “ The compound according to claim 1 wherein the xanthurenic acid...”.

Claims 3 and 4 recites “Compound according to claim 1 consisting of that this protein...”. This is vague and indefinite as to the compound. The examiner suggests “The compound according to claim 1 wherein the protein...”.

Applicant's arguments have been carefully considered but were not found persuasive. Applicant contends that a compound is not antigenic per se but by an introduction into an organism vivat. However, the examiner contends that applicant has stated that the application is drawn to production of antibody against these proteins, therefore, the compound should be antigenic.

***Claim Rejections - 35 USC § 102***

Claims 1-4 and 6 are/stand rejected under 35 USC 102(b) for the reasons of record which are restated below.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (Chem. Pharm. Bult., 1980, vol. 28, pp-2960-2966)

The instant claims are drawn to a compound of xanthurenic acid and a protein.

Kobayashi et al. discloses the interaction of xanthurenic acid and bovine serum albumin (a protein). Kobayashi discloses that bovine serum albumin (BSA) has binding ability with xanthurenic acid (XA). See, for example, abstract and page 2962.

Because the structural limitations are met, the compound must inherently function as claimed.

Therefore, the cited reference is deemed to anticipate the instant claims.

Applicant's arguments have been carefully considered but were not found persuasive. Applicant contends that Kobayashi et al. did not describe proteins modified covalently by xanthurenic acid. However the examiner contends that Kobayashi discloses that bovine serum albumin (BSA) has binding ability with xanthurenic acid (XA) and that Xanthurenic acid is a natural metabolite circulating in the body and would necessarily react with cellular/ tissue proteins.

***Conclusion***

All claims are rejected.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy Teller whose telephone number is 571-272-0971. The examiner can normally be reached on Monday-Friday from 5:30 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RT  
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7/24/08

/Christopher R. Tate/  
Primary Examiner, Art Unit 1655

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